

Serial No.: 09/658,210
Response filed June 1, 2004

Attorney's Docket No.:10559/200001/P8417
Intel Corporation

REMARKS

Claims 1-44 are pending, with claims 1, 12, 23, 31, 37, 39 being independent. Claims 10, 21, 23-38, and 41 have been cancelled by this amendment without prejudice. Claims 1, 11, 12, 22, and 39 have been amended. No new matter has been added. Reconsideration and allowance of the above-referenced application are respectfully requested.

In response to the restriction requirement, Group I (claims 1-22 and 39-44) identified in the office action are elected without traverse. The non-elected claims (claims 23-38) have been cancelled without prejudice as requested in the office action.

Claims 1-22 and 39-44 stand rejected under 35 U.S.C. 102(e) as allegedly being anticipated by Zisapel et al., US Patent No. 6,665,702 (hereinafter Zisapel). This contention is respectfully traversed.

Independent claims 1, 12, and 39 have been amended to include the language of cancelled claims 10, 21, and 41, respectively. As amended, the claims define load balancing techniques in which clients are grouped for assignment to servers and then regrouped based on monitoring of connection performance differences among grouped clients. Thus, for example, client addresses can be initially grouped without knowledge of the internet service providers the clients are connected to, and the grouping can then evolve over time, potentially being subdivided, based on the quality of service provided to clients within the group. For example, the regrouping can be of isolated CIDR (classless inter-domain routing) blocks experiencing different performance in an IP (Internet Protocol) network. See, for example, the present

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specification at page 7, lines 16-23; page 8, lines 7-15; page 9, line 16 to page 10, line 21; and page 13, line 18 to page 14, line 14.

In contrast with the art of record, the claimed subject matter provides advantages in deployment and operation, including the ability to adapt to network and subnet topology changes over time, as there need be no assumptions made that addresses are or are not physically in close proximity, or that they will remain so. Zisapel describes determining network proximity of a requestor using a polling process that builds up a table of proximity ratings, which is then used in deciding where to route network requests. Zisapel fails to teach or suggest the claimed isolating and grouping to promote the above-described advantages for the combined system.

Dependent claims 2-9, 11, 13-20, 22, 40, and 42-44 are patentable based on the above arguments and their own merits. Thus, it is respectfully suggested for all of these reasons, that the current rejection is totally overcome; that none of the cited art teaches or suggests the features which are now claimed, and therefore that all of these claims should be in condition for allowance. A formal notice of allowance is thus respectfully requested.

Additionally, it is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific issue or comment does not signify agreement with or concession of that issue or comment. Because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this

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paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Please apply any necessary charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: 5/28/04

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